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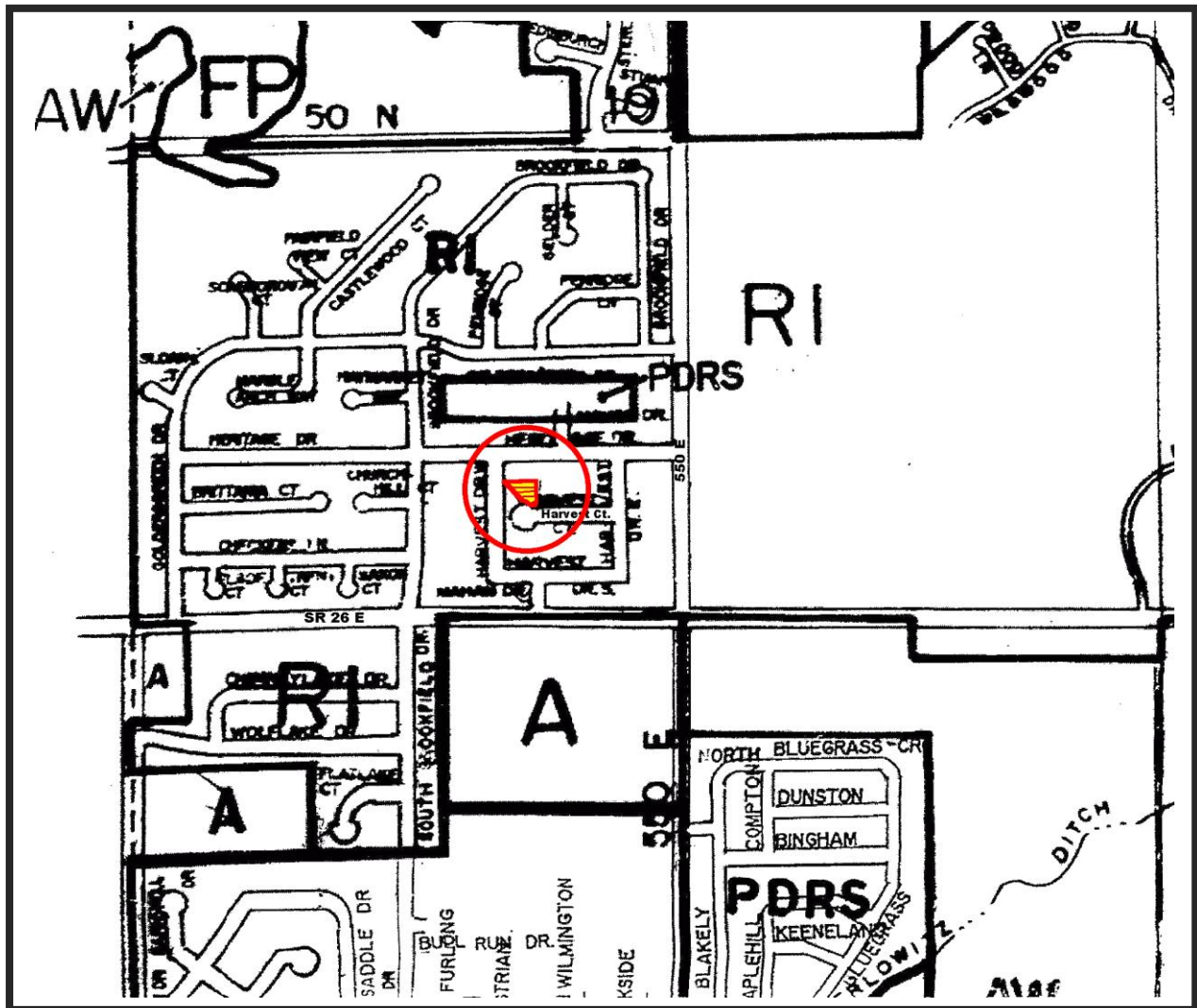
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**BZA-1865**  
**DENNIS AND CAROLYN HOCKSTRA**  
**Variance**

**STAFF REPORT**  
**October 18, 2012**

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**REQUEST MADE, PROPOSED USE, LOCATION:**

Petitioners (with consent of owner Carolyn Hockstra) are requesting a 4' side setback instead of the required 6' in order to construct two storage sheds on their property at 5330 Harvest Court, in Heritage Estates Subdivision, Perry 19 (SW) 23-4. (UZO 4-2-2)

**AREA ZONING PATTERNS:**

The site is zoned Single-family Residential, R1, as is all surrounding property. This site is located in the middle of a large area of R1 zoned developments east of Lafayette. The only exception that is in close proximity is the PDRS zoned subdivision farther to the north called Heritage Cove; this development is also single-family homes but with shared driveways.

**AREA LAND USE PATTERNS:**

Petitioners' property is located near the end of a cul-de-sac and is roughly triangular in shape. There is a single-family home in the middle of the lot and an existing storage building is situated in the northwest corner of the property. Petitioners plan to remove this building if the variance is granted and once the two new storage sheds are in place.

**TRAFFIC AND TRANSPORTATION:**

Harvest Court is a rural local road according to the *Thoroughfare Plan*. These sheds will have no affect on the garage or the existing parking on site.

**ENVIRONMENTAL AND UTILITY CONSIDERATIONS:**

Heritage Estates Subdivision is served by city sewer and water. Even with the addition of two new sheds, the site has adequate green space and is well below the UZO's lot coverage maximum. According to the final plat there are no easements of any kind on the side property line that would impact the placement of these sheds.

**STAFF COMMENTS:**

Petitioners are requesting a variance of four feet from the west side property line instead of the required six feet for two accessory structures. One of the proposed sheds is 10' x 12'; the second is 8' x 16'. Sheds that are 120 square feet or smaller, and built on skids with no permanent foundation, are not required to have a building permit. They are still required, however, to meet side setbacks. Petitioners' first shed, though it is only 120 square feet, is still required to have an improvement location permit (ILP) because both sheds will be on permanent foundations. Petitioners poured foundations

for these two structures without an improvement location permit, four feet from the property line.

Staff feels that the location of the sheds could easily be changed to meet the requirements of the ordinance. There is adequate area in the rear yard to place these structures while meeting the existing setbacks. The ordinance is not imposing a hardship on this site, since “any improvement initiated in violation of the standards of this ordinance” is by definition a self-imposed situation which cannot be considered a hardship. If this variance is denied, the use of the property will not be affected as there is nothing preventing the two sheds from being built an additional two feet away from the lot line. It is only the property owners’ wish (and the fact that the foundations are already in place) for structures in this location that is necessitating a variance.

Regarding the ballot items:

1. The Area Plan Commission on October 17, 2012 determined that the variance requested **IS NOT** a use variance.

And it is staff’s opinion that:

2. Granting this variance **WILL NOT** be injurious to the public health, safety, and general welfare of the community. Allowing the proposed structures to be set four feet from the property line does not currently create a problem of safety because the nearest building on the adjacent lot is far enough away that it would not intrude into fire separation regulations.
3. Use and value of the area adjacent to the property included in the variance request **WILL NOT** be affected in a substantially adverse manner. Granting the variance would not negatively affect adjacent properties. In fact allowing the sheds to be located two feet closer to the property lines will be almost unnoticed because the adjacent home is approximately 70’ from the property line where the sheds would be located.
4. The terms of the zoning ordinance are being applied to a situation that **IS** common to other properties in the same zoning district. All properties in the R1 zone are required to have six foot setbacks for accessory structures from the side property line. The width of this particular property widens going from the street to the rear of the lot. There is adequate area to relocate these structures behind the home and comply with the setbacks. The main reason the petitioners would like the sheds in the proposed locations is that the foundations are already in the ground.
5. Strict application of the terms of the zoning ordinance **WILL NOT** result in an unusual or unnecessary hardship as defined in the zoning ordinance. The main reason that the petitioners are requesting this variance is because they did not think they needed permits to install sheds and the foundations were poured before they applied for a permit. Even though the intent of the homeowner was not to ignore the

rules of the ordinance, it is still true that construction was started without a permit. This fact is called out in the definition of hardship as being a self-imposed hardship which, according to the ordinance, cannot be considered a hardship.

**Note:** Questions 5a. and 5b. need only be answered if a hardship is found in Question 5 above.

5a. The hardship involved **IS** self-imposed or solely based on a perceived reduction of or restriction on economic gain. Because construction was begun without a permit, it is by definition self-imposed which cannot be considered a hardship. It is also based on a perceived reduction of economic gain, since petitioners are requesting the variance in order to save money by not having to redo the existing poured foundation.

5b. The variance sought **DOES NOT** provide the minimum relief needed to alleviate the hardship. In this case there is no minimum relief because there is adequate area to construct the sheds in a complying location.

**STAFF RECOMMENDATION:**

Denial